

REMARKS

Summary of Office Action

In the Office Action, the Examiner rejected Claims 40-51 on the ground of nonstatutory obviousness-type double patenting over claims 1-5 of U.S. Patent Number 6,726,636. Although the Examiner provided the language of 35 U.S.C. § 102(b), the Examiner rejected Claims 40-51 under 35 U.S.C. § 102(e) as being clearly anticipated by U.S. Patent Number 5,825,283 issued to “Cambì” (hereinafter “Camhi”). *Office Action, Pages 2-3*. Finally, the Examiner rejected Claims 40-51 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Number 4,996,161 issued to Connors et al. (hereinafter “Connors”) in view of U.S. Patent Number 4,999,613 issued to Williamson et al. (hereinafter “Williamson”).

Summary of Amendment

Upon entry of the present Amendment, Claims 40 and 51 will have been amended. Additionally, new Claims 52-55 will have been added. As such, Claims 40-55 remain currently pending. By the present Amendment and Remarks, Applicant submits that the rejections have been overcome and respectfully requests reconsideration of the outstanding Office Action.

Applicant's Response

1. Double Patenting Rejection of Claims 40-51

A Terminal Disclaimer is being filed herewith in regard to Applicant's U.S. Patent Number 6,726,636, thereby rendering moot the rejection of Claims 40-51 on nonstatutory obviousness-type double patenting grounds. As such, Applicant respectfully requests that the Examiner withdraw this rejection.

2. Section 102(b) Rejection of Claims 40-51

The Examiner submits that Camhi teaches, “a device comprising a GPS(14), a sensor to determine blood alcohol levels(28), memory(20) containing data to stored limits

information, communication means(40) and processor(12).” *Office Action, Page 3.* The Examiner further asserts that the sensor(28) is equivalent to the claimed “breathalyzer;” the communication means(40) is equivalent to the claimed “radio frequency transmitter;” and the microprocessor(12) is equivalent to the claimed “immobilizer CPU;” and finally that the other output devices(34) would include a “means for immobilizing” a vehicle. *Id.*

Applicant’s independent Claim 40 as currently amended recites, *inter alia*, “A radio frequency breathalyzer system...comprising a breathalyzer unit...a radio frequency transmitter unit operatively interconnected with said breathalyzer...being operative to transmit a...signal...and an immobilizer CPU installed in said vehicle ...having a radio frequency receiver operative to receive said...signals transmitted from said radio frequency transmitter...”

As can be seen from the above-recited claim language, Applicant’s invention contemplates that the breathalyzer unit and the interconnected radio frequency (RF) transmitter unit send signals to the immobilizer CPU installed in the vehicle in order to prevent operation of the vehicle when an individual’s alcohol level is above a certain level.

the Camhi invention, in contrast, works by a much different process. In particular, “Information is transferred by the processor (12) to the communication means (40)....” *Column 17, lines 65-66* (emphasis added). The Examiner admitted that the processor (12) is equivalent to the immobilizer CPU and the communication means is equivalent to the RF transmitter. As such, Applicant’s invention and the Camhi invention work in the opposite direction; namely, Applicant’s invention has the information traveling from the transmitter to the CPU, whereas Camhi’s invention has the information traveling from the CPU to the transmitter. The inventions of Camhi and Applicant are thus believed to be directed toward achieving different results.

Furthermore, Camhi explicitly states that the communications means (40) and associated antenna (42) are, “for the transmission of information from the device to a remote location or locations.” *Column 17, lines 57-60* (emphasis added). In contrast, Applicant’s invention as recited in independent Claim 40 recites that the signal is sent to the immobilizer CPU installed in the vehicle. This is further evidence that Camhi does not anticipate Applicant’s claimed invention.

In addition, Camhi discloses numerous specific examples of uses for its system, including: alerting a person that they are entering a forbidden area; for rental companies to alert customers they are entering a high crime area; to properly manage fleet traffic; to alert a driver they have exceeded the maximum speed limit of an area; allow parents to define "off limits" areas for their children; to counter child abductions; to determine a child's truancy; the monitoring of valuable cargo; alerting authorities of potential fishing in restricted areas; determination of insurance rates; determining a probationer's location; use in car theft sting operations; vehicle theft prevention; prevention of "friendly fire;" notification of "officer down" status; disabling a missile's arming device; preventing accidental shooting of hunters by other hunters; alerting one of obstacles in one's path; etc.

However, even with these numerous and varied applications being fully disclosed, Camhi does not disclose the use of a breathalyzer system in order to prevent the operation of a motor vehicle. As such, it would appear that the Camhi reference did not contemplate nor disclose such a device and therefore does not anticipate Applicant's claimed invention.

For the foregoing reasons and because Camhi fails to disclose the above-noted features of the present invention, Applicant submits that Camhi fails to disclose each and every recited feature of the present invention as recited in independent Claim 40 necessary to maintain a rejection under 35 U.S.C. § 102. MPEP § 2131..

Accordingly, Applicant submits that the Examiner has failed to provide an adequate evidentiary basis to support the rejection under 35 U.S.C. § 102(e) and that the present rejection of Claim 40 is improper and should be withdrawn.

Applicant further submits that the Claims 41-50 are allowable at least for the reason that these claims depend on allowable independent Claim 40 and because these claims recite additional features that further define the present invention.

In regard to Applicant's independent Claim 51, Applicant incorporates by reference the arguments made above in relation to independent Claim 40. In particular, Applicant respectfully submits that Claim 50 as currently amended requires that the means for immobilizing the vehicle be installed within the vehicle and that the alcohol content information is sent from the RF transmitter to the means for immobilizing the vehicle. This

is in contrast to the invention taught by Camhi wherein the processor sends information to the transmitter and wherein the information is transmitted to a remote location.

Accordingly, Applicant submits that the Examiner has failed to provide an adequate evidentiary basis to support the rejection under 35 U.S.C. § 102(e) and that the present rejection of Claim 51 is improper and should be withdrawn. MPEP § 2131.

3. Section 103(a) Rejection of Claims 40-51

The Examiner submits that Connors teaches a breath alcohol testing device having a voice recognition sensor, means for creating unique codes associated with an individual based upon their voice, and means for detecting fraudulent use. *Office Action, Page 3*. The Examiner, however, admits that Connors does not disclose the use of an RF transmitter to transmit the breath alcohol content (BAC) data. *Id.*

The Examiner then asserts that Williamson discloses an RF transmitter associated with a central system that also has a BAC detector and voice recognition means. *Id.* (emphasis added). The Examiner submits that Williamson discloses that data can be "...connected through phone lines or equivalent transmission path...." *Id.* The Examiner submits that cell phone communication is an equivalent to phone lines. *Id.* The Examiner then asserts that it would have been within the skill of the art to combine Connors and Williamson to use a cell phone to transmit BAC data. *Id.*

Finally, the Examiner asserts that GPS systems are well known to provide a location and are used to locate vehicles and as such it would have been within the skill in the art to further modify Connors and incorporate a GPS unit. *Id.*

Applicant's independent Claim 40 as currently amended recites, *inter alia*, "A radio frequency breathalyzer system...comprising a breathalyzer unit...a radio frequency transmitter unit operatively interconnected with said breathalyzer...being operative to transmit a...signal...and an immobilizer CPU installed in said vehicle ...having a radio frequency receiver operative to receive said...signals transmitted from said radio frequency transmitter..."

As the Examiner admitted, Connors does not disclose whatsoever the use of an RF transmitter to transmit BAC data. Furthermore, the Williamson reference does not remedy

this situation. Williamson teaches a home confinement system (10) which includes a home monitoring unit (HMU) (20) capable of receiving RF signals from an RF transmitter (16) attached to a prisoner's (13) ankle. *Column 6, lines 55-62*. As understood, the purpose of this RF transmitter is to determine the prisoner's location in the home he or she is confined to. *Column 6, lines 62-64*. The Williamson system does include a breathalyzer component (21), however, it is, "...connected to the home monitoring unit..." *Column 6, line 67-Column 7, line 5*. The Williamson system uses RF transmissions only to indicate that the prisoner is located in the vicinity of the HMU and not to transmit BAC data, as the breathalyzer unit is connected directly to the HMU. Furthermore, there is no teaching in Williamson of using the BAC data to prevent the operation of a vehicle. As such, even if Conners and Williamson could properly be combined, which Applicant does not concede, Applicant's invention as recited in independent Claim 40 still would not be achieved.

Accordingly, Applicant submits that no proper combination of Conners and Williamson discloses or suggests at least the above-noted features of the present invention, and thus, the rejection of at least independent Claim 40 under 35 U.S.C. § 103(a) is improper and should be withdrawn. MPEP § 2143.03

Applicant further submits that the Claims 41-50 are allowable at least for the reason that these claims depend on allowable independent Claim 40 and because these claims recite additional features that further define the present invention.

In regard to Applicant's independent Claim 51, Applicant incorporates by reference the arguments made above in relation to independent Claim 40. In particular, Applicant respectfully submits that Claim 50 as currently amended requires that the BAC data is sent from an RF transmitter to the means for immobilizing the vehicle. This is in contrast to the invention taught by Conners that completely lacks an RF transmitter and the invention taught by Williamson, which utilizes an RF transmitting anklet to verify a prisoner's presence but not to transmit BAC data.

Accordingly, the evidentiary basis to support the rejection under 35 U.S.C. § 103(a) is inadequate and that the present rejection of Claim 51 is improper and should be withdrawn.

4. New Claims 52-55

New Claims 52-55 are directed toward an embodiment of Applicant's invention further comprising a second radio frequency transmitter unit. This unit may either transmit the first signal, thereby allowing a user to operate the vehicle without using the breathalyzer unit, such as the case of an individual using the vehicle who is not required to use a breathalyzer interlock device. Alternatively, this unit may transmit a third signal thereby requiring the immobilizer CPU to receive the first signal or prevent operation of the vehicle. This version of the second unit may also be in the form of a tamper-proof bracelet.

Applicant respectfully submits that no new matter is added by these claims, as there is support for such amendment throughout the application and in particular in paragraphs 0015, 0016, and 0020.

Applicant further submits that new Claims 52-55 are not anticipated or rendered obvious by any of the references of record as none of the cited references are believed to disclose two separate RF transmitter devices.

Conclusion

Applicant respectfully submits that each and every pending claim of the present invention meets the requirements for patentability under 35 U.S.C. §§ 102 and 103, and respectfully requests that the Examiner indicate allowance of each and every pending claim of the present invention.

In view of the foregoing, it is submitted that none of the references of record, either taken alone or in any proper combination thereof, anticipate or render obvious Applicant's invention as recited in each of Claims 40-55. The applied references of record have been discussed and distinguished, while significant claim features of the present invention have been pointed out.

Accordingly, reconsideration of the outstanding Office Action and allowance of the present application and all the claims therein are respectfully requested and now believed to be appropriate.

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If any additional fee is required, please charge Deposit Account Number 19-4330.

Respectfully submitted,

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